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| 10/748,685 | 12/31/2003 | George Fitzmaurice | 1252.1083 | 1979 |
| 21171 7590 01/30/2007 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005 | | | EXAMINER NGUYEN, LE V | |
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| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|-------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/748,685 | Applicant(s) FITZMAURICE ET AL. | |
| | Examiner Le Nguyen | Art Unit 2174 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/8/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 19-24 and 26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 and 17 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-16, 18, 25 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>11/8/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to an amendment filed 11/8/06.
2. Claims 1-27 are pending in this application; and, claims 1, 4, 6, 8, 17, 18, 25 and 27 are independent claims. Claims 1, 4, 6, 8, 9, 12, 13, 16-18 and 25 have been amended; claim 27 has been added; claims 8 and 17 have been allowed; and, claims 19-24 and 26 have been withdrawn from consideration. This action is made Final.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

4. Claim 27 is objected to because of the following informalities: "a menu control associated with and for each layer" in line 4 of claim 7 appears to contain grammatical errors. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "one of the controls" in line 1 of claim 15. There is insufficient antecedent basis for this limitation in the claim. In claim 6 from which claim 15 depends, only a single control is provided.

Claim Rejections - 35 USC § 102

6. Claims 1, 4, 5, 25 and 27 are rejected under 35 U.S.C. 102(a) as being anticipated by Screen Dumps of Macromedia Flash MX ("Macromedia Flash").

As per claim 1, Macromedia Flash teaches a layer editor interface comprising layer representation graphic having layer names (figs. 2-4; e.g. "Layer 1" and "square") and a pop-up menu control activatable for each layer from within the layer representation and that allows the layer to be edited (figs. 2-4; *for each layer, controls such as controls 38 and 40 are activatable, from within the layer representation, to display a pop-up menu such as pop-up menu 50*).

As per claim 4, Macromedia Flash teaches a layer editor interface comprising layer representation graphics having layer names and selection targets with a box shape (figs. 2-4; *depicted are layer names with a box shape such as layer box 26, "Layer 1" and "square"*) and controls associated with the representation graphics that are coincident with the targets (fig. 2; *controls 38 and 40*).

As per claim 5, Macromedia Flash teaches a layer editor interface wherein a status indicator overlaps the selection targets (figs. 2-4; *menu target area overlap status indicators such as status indicator 30 (or lock icon, not shown)*).

As per claim 25, Macromedia Flash teaches an apparatus comprising a display and a processor displaying a layer editor interface on the display, the interface comprising a layer representation graphic having a user entered graphic name (figs. 2

Art Unit: 2174

and 4; page 1) and a corresponding coincident control (figs. 2 and 4; *"Properties" menu item*).

As per claim 27, Macromedia Flash teaches a layer editor interface comprising layer representation graphics representing graphic layers having displayed layer names descriptive of the content of the layers and a menu control associated with each layer that allows the layer to be edited (figs. 2-4; *for each layer, controls such as controls 38 and 40 are activatable, from within the layer representation, to display a pop-up menu such as pop-up menu 50*).

Claim Rejections - 35 USC § 103

7. Claims 2, 3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Screen Dumps of Macromedia Flash MX ("Macromedia Flash") in view of Buxton et al. ("Buxton").

As per claim 2, although Macromedia Flash teaches a layer editor interface comprising a graphical representation having layer names (figs. 2-4; *e.g. "Layer 1" and "square"*) and a pop-up menu control activatable for each layer, the layer editor interface further comprising performing selection or operations with underlying menus where a) activation of a control via a click selects a corresponding layer, and b) execution of another click selects an operation on the layer (figs. 2-4; *i.e. activation of a control via a "click" selects a corresponding layer for an editing operation on the layer*), Macromedia Flash does not explicitly disclose performing selections or operations with underlying menus where a mark simultaneously selects a graphical representation and selects an operation on the graphical representation. Buxton teaches performing

Art Unit: 2174

selections or operations with underlying menus where a mark simultaneously selects a graphical representation and selects an operation on the graphical representation (fig. 11; col. 9, lines 27-28 and 56-67). It would have been obvious to an artisan at the time of the invention to incorporate the method of Buxton with the modified method of Macromedia Flash in order to provide a straightforward way to embed multiple command attributes into a single mark.

As per claim 3, the modified Macromedia Flash teaches a layer editor interface wherein the marking menu control includes selections for new layer (Macromedia Flash: figs. 2-4; page 3; *"Insert > Layer"*), rename layer (Macromedia Flash: figs. 2-4; page 1; *"Properties"*), delete layer (Macromedia Flash: figs. 2-4; page 1; *"Delete Layer"*), merge layer (Macromedia Flash: figs. 2-4; page 3; *wherein the active layer is combined with the layer below the active layer so that the content of the layers are combined*), lock layer (Macromedia Flash: figs. 2-4), hide layer (Macromedia Flash: figs. 2-4) and position layer (Macromedia Flash: figs. 2-4; page 2; *comprises a mode in which dragging on the layer itself moves the currently selected layer in 2 dimensions*).

Although the modified Macromedia Flash further teaches an additional selection that includes clearing the contents of the active layer (Macromedia Flash: figs. 2-4; *via Edit > Cut or Edit > Clear selection*), the modified Macromedia Flash does not explicitly disclose additional selections to be included in the pop-up menu/marking menu control. Official Notice is taken that including additional selections within a pop-up menu/marking menu control is well known in the art. It would have been obvious to an artisan at the time of the invention to incorporate additional selections to be included in

Art Unit: 2174

the pop-up menu/marking menu control with the method of the modified Macromedia Flash so that the number of items in the menu can be increased while still permitting rapid selection of the menu items.

As per claim 18, although Macromedia Flash teaches a layer editor comprising a linear list of layers and a menu accessible and activatable from within the layer list and providing layer editing functions (Macromedia Flash: figs. 2-4; pages 1-3; *for each layer, controls such as controls 38 and 40 are activatable, from within the layer representation, to display a pop-up menu such as pop-up menu 50*), Macromedia Flash does not explicitly disclose the menu being one of a marking type. Buxton teaches a menu being one of a marking type (fig. 11; col. 9, lines 27-28 and 56-67). It would have been obvious to an artisan at the time of the invention to incorporate the method of Buxton with the method of the modified Macromedia Flash in order to provide a straightforward way to embed multiple command attributes into a single mark.

8. Claims 6, 7, 10, 12-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Screen Dumps of Macromedia Flash MX ("Macromedia Flash") in view of Bernstein et al. ("Bernstein").

As per claim 6, although Macromedia Flash teaches an interface comprising layer representation graphic having layer names inputable by a user and displayable (figs. 2 and 4; page 1) and a control associated with the representation graphic activatable from within the layer representation and that allows a corresponding layer to be edited (figs. 2-4; *for each layer, controls such as controls 38 and 40 are activatable, from within the layer representation, to display a pop-up menu such as pop-up menu*

Art Unit: 2174

50), Macromedia Flash does not explicitly disclose input by a user that is displayable as hand drawn strokes. Bernstein teaches input by a user that is displayable as hand drawn strokes (Abstract; figs. 10-11). It would have been obvious to an artisan at the time of the invention to incorporate the method of Bernstein with the method of Macromedia Flash given that pen-based systems are particularly well-suited for mobile users due to the ease of use and portability of pen peripherals and that handwritten ink are often times more recognizable to the user of the pen-based system, given that handwriting recognition software are prone to errors.

As per claim 7, the modified Macromedia Flash teaches an interface comprising: a drawing dialog box invoked by the control and allowing the user to input the layer names (Macromedia Flash: figs. 2-4; page 1; Bernstein: sections [0039]-[0041]).

As per claim 10, although the modified Macromedia Flash teaches an interface wherein an active layer is highlighted with shading surrounding the name (Macromedia Flash: figs. 2-3), the modified Macromedia Flash does not explicitly disclose highlighting with a frame surrounding the name. Official Notice is taken that highlighting with a frame surrounding a name is well known in the art. It would have been obvious to an artisan at the time of the invention to incorporate the method of highlighting with a frame surrounding a name with the method of the modified Macromedia Flash as an implementation preference.

As per claim 12, the modified Macromedia Flash teaches an interface wherein each layer graphic has an indicator indicating whether a corresponding drawing layer is

Art Unit: 2174

hidden or visible (Macromedia Flash: figs. 2-4; *in the eye icon column, indicators "." indicate that the layers are visible*).

As per claim 13, the modified Macromedia Flash teaches an interface wherein each layer graphic has an indicator indicating whether a corresponding drawing layer is one of hidden or locked (Macromedia Flash: figs. 2-4; *from left to right, first "." (depicted) indicator indicates that the layers are visible, while "X" (not shown) indicator indicates that the layers are hidden; and, second "." indicator (depicted) indicates that the layers are unlocked, while a lock icon indicator (not shown) in place of the "." indicator indicates that the layers are locked*).

As per claim 14, the modified Macromedia Flash teaches an interface wherein a background layer has a text label (Macromedia Flash: fig. 4; *background layer "Layer 2"*).

As per claim 16, the modified Macromedia Flash teaches an interface wherein making a marking gesture in association with the layer representation graphic initiates a function with respect to one or more of the layers (Macromedia Flash: figs. 2-4, pages 1-3; Bernstein: section [0039]).

9. Claims 9, 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Screen Dumps of Macromedia Flash MX ("Macromedia Flash") in view of Bernstein et al. ("Bernstein") as applied to claim 6, and further in view of Buxton et al. ("Buxton").

As per claim 9, although the modified Macromedia Flash teaches an interface wherein the control invokes a menu of a layer editing menu type (Macromedia Flash:

figs. 2-4, pages 1-3), the modified Macromedia Flash does not explicitly disclose a menu being of a marking menu type. Buxton teaches a menu being of a marking menu type (fig. 11; col. 9, lines 27-28 and 56-67). It would have been obvious to an artisan at the time of the invention to incorporate the method of Buxton with the method of the modified Macromedia Flash in order to provide a straightforward way to embed multiple command attributes into a single mark.

As per claim 11, although the modified Macromedia Flash teaches an interface wherein each layer control comprises a pop-up menu control for layer editing comprising performing selection or operations with underlying menus where a) activation of a control via a click selects a corresponding layer, and b) execution of another click selects an operation on the layer (figs. 2-4; *i.e. activation of a control via a "click" selects a corresponding layer for an editing operation on the layer*), the modified Macromedia Flash does not explicitly disclose performing selections or operations with underlying menus where a mark simultaneously selects a graphical representation and selects an operation on the graphical representation, *i.e. marking menu*. Buxton teaches a marking menu that performs selections or operations with underlying menus where a mark simultaneously selects a graphical representation and selects an operation on the graphical representation (fig. 11; col. 9, lines 27-28 and 56-67). It would have been obvious to an artisan at the time of the invention to incorporate the method of Buxton with the method of the modified Macromedia Flash in order to provide a straightforward way to embed multiple command attributes into a single mark.

The modified Macromedia Flash further teaches a graphical representation having layer names and additional controls associated with the graphical representation such as a move control for moving a position of a layer in a layer editor stack (Macromedia Flash: figs. 2-4; *via a drag operation in the timeline*) and a transparency control controlling the transparency of a corresponding drawing layer (Macromedia Flash: figs. 2-4; *via Windows > Panel > Effect*). However, Macromedia Flash does not explicitly disclose additional controls being activatable from within the graphical representation. Official Notice is taken that including additional controls being activatable from within the graphical representation (or additional controls within a menu item) is well known in the art. It would have been obvious to an artisan at the time of the invention to incorporate additional controls within a menu item with the method of the modified Macromedia Flash so that the number of controls in the menu can be increased while continually providing for rapid selection.

As per claim 15, although the modified Macromedia Flash teaches an interface comprising a graphical representation having layer names (figs. 2-4; e.g. *"Layer 1"* and *"square"*) and a pop-up menu control activatable for each layer, the layer editor interface further comprising performing selection or operations with underlying menus where a) activation of a control via a click selects a corresponding layer, and b) execution of another click selects an operation on the layer (figs. 2-4; *i.e. activation of a control via a "click" selects a corresponding layer for an editing operation on the layer*), the modified Macromedia Flash does not explicitly disclose performing selections or operations with underlying menus where a mark simultaneously selects a graphical

Art Unit: 2174

representation and selects an operation on the graphical representation. Buxton teaches performing selections or operations with underlying menus where a mark simultaneously selects a graphical representation and selects an operation on the graphical representation (fig. 11; col. 9, lines 27-28 and 56-67). It would have been obvious to an artisan at the time of the invention to incorporate the method of Buxton with the method of the modified Macromedia Flash in order to provide a straightforward way to embed multiple command attributes into a single mark.

Response to Arguments

10. Applicant's arguments with respect to claims 1, 2, 4, 6, 9, 10, 11, 16, 18 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lopresti et al. (US 5,809,498) teach a method of locating a penstroke sequence in a computer.

Kurtenback (US 5,926,178) teaches a display and control of menus with radial and linear portions.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §

Art Unit: 2174

706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquires

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lê Nguyen whose telephone number is (571) 272-4068. The examiner can normally be reached on Monday - Friday from 7:00 am to 3:30 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached at (571) 272-4063.

Art Unit: 2174.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LVN
Patent Examiner
January 17, 2007

Kristine Kincaid
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